

Corp. Tax Cases
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Edward Rook

Paul B. Coburn

Rochester Telephone Corporation

Corp. Tax

Please call to the State Tax Commission's attention that the Corporate Tax Bureau does not wish to have the decision in this case published for the reasons set forth in the attached memorandums of September 9, 1974.

September 11, 1974

Paul B. Coburn
Hearing Officer

PBC:jm

STATE OF NEW YORK
STATE TAX COMMISSION

- - - - - :
In the Matter of Petitions :
of :
ROCHESTER TELEPHONE CORPORATION :
for redetermination of deficiencies of :
franchise tax for the periods ended :
9/30/69 through 6/30/72 under Section :
184, and for the periods ended November 30, :
1967 through 8/31/72 under Section 186-a :
of Article 9 of the Tax Law :
- - - - -

Rochester Telephone Corporation having filed petitions
for redeterminations of deficiencies under Sections 184 and
186-a of Article 9 of the tax law, and a hearing having been
held in connection therewith at the office of the State Tax
Commission, State Campus, Albany, New York, at which hearing
the taxpayer was represented by Richard W. Murphy, an employee,
and the record having been duly examined and considered by
the State Tax Commission,

It is hereby found:

(1) Based on a field audit examination, the Corporation
Tax Bureau issued statements of audit adjustment and notices
of deficiency dated 3/15/73 as follows:

Section 184

<u>Period Ended</u>	<u>Deficiency</u>	<u>Period Ended</u>	<u>Deficiency</u>
9/30/69	\$2,747.07	3/31/71	\$3,036.21
12/31/69	2,813.10	6/30/71	3,572.88
3/31/70	2,956.22	9/30/71	3,554.09
6/30/70	2,908.73	12/31/71	3,795.95
9/30/70	2,888.54	3/31/72	3,903.02
12/31/70	2,960.21	6/30/72	3,933.93

The above deficiencies resulted from disallowance
of the following expenses claimed by the taxpayer as a
deduction in arriving at gross earnings for Section 184
purposes:

- (a) Account #648 - Public Telephone Commissions:
This account includes amounts paid to the owners or tenants of premises upon which public and semi-public telephone stations are located.
- (b) Account #649 - Directory Expenses:
This account includes expenses incurred in preparing copy, printing, binding and distributing directories, and the cost of securing advertisements for directories. It also includes the cost of directories of other companies purchased for the use of Rochester Telephone Corporation.

Section 184 provides for a tax on gross earnings from all sources within this state.

(2) Section 186-a

<u>Period Ended</u>	<u>Deficiency</u>	<u>Period Ended</u>	<u>Deficiency</u>
11/30/69	\$1,606.80	5/31/71	\$1,868.10
2/28/70	1,612.00	8/31/71	2,155.50
5/31/70	1,606.80	11/30/71	2,155.50
8/31/70	1,606.80	2/28/72	2,173.50
11/30/70	1,606.80	5/31/72	2,251.50
2/28/71	1,783.60	8/31/72	2,290.50

In computing its profit from advertising for purposes of Section 186-a, the taxpayer deducted the cost of publishing the yellow pages of its directories listing the various advertisers. The deficiencies resulted from disallowance of such deduction.

Section 186-a provides for a tax on gross income including "profits from any transaction (except sales for resale and rentals) within this state whatsoever;"

The State Tax Commission hereby

DECIDES:

(A) The term "gross earnings" as used in Section 184 has been consistently construed as being synonymous with "gross receipts." The deductions for public telephone commissions paid and directory expenses were properly disallowed and the deficiencies indicated at (1) are affirmed together with interest pursuant to Section 1084 of the tax law.

(B) The cost of publishing the yellow pages of the directories is a proper deduction, under Section 186-a, in arriving at the profit from advertising. Accordingly, the deficiencies indicated at (2) are hereby cancelled.

Dated: Albany, N.Y.

this 18th day of September 1974.

STATE TAX COMMISSION



President



Commissioner



Commissioner